purchase.[20] Large national hotel chains that depend on regular and ongoing relationships with their customers have a reputation and a sense of customer goodwill to maintain, and may be unlikely to want to deal with operator service providers that charge high prices to the public or impose PIFs. See, e.g., the Washington Post story summarized in n.26 of the Further Notice. However, local, independent premises owners may lack the steady stream of repeat customers for their phones and believe they can hide behind the delayed billing of phone calls from their premises to escape the ire of their customers. Thus, they can join together with private payphone providers and alternative operator service providers in gouging the public. The Commission should not maintain a regulatory regime which encourages such behavior.

The Commission estimates that by 1997 the annual savings on intraLATA 0+ commissions from BPP would approximate $340 million.[21] This quantification uses, as a starting point, the 1991 market data shown in the Final TOCSIA Report (Table 4), adjusted (as discussed in the preceding subsection) for a 4.3% overall annual growth rate in revenues and an estimated one-third decline in alternative OSP market share. The analysis also assumed that approximately 18.1% of total OSP revenues relate to intraLATA calls; that absent BBP, the proportion of

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[20] In the case of collect or third-number-billed calls, the person paying the high charges may never have any direct contact with the premises owner.

[21] Further Notice, ¶12 (n.25) and Appendix B.

dial-around calls would increase to 50% by 1997; and that "dial-around" compensation to private payphone providers would double from current levels. The Commission also made an adjustment to avoid double-counting benefits from the commission payments relating to alternative OSP rates that it had previously assumed (in n.24) would be reduced upon implementation of BPP.

Sprint believes that the Commission's estimate of savings in commission expense is substantially understated. First, the assumed 12% commission rate for 1991 appears to be far too low. In Sprint's case, the actual commissions paid in 1991 amounted to 20.3% of revenues.[22] While commission rates are proprietary and not readily available for other OSPs, it strains credulity to believe that Sprint's commission rates

[22] This commission rate is higher than that reflected in the non-public version of Sprint's reports to the Commission in CC Docket No. 90-313, Phase II. Sprint has reviewed those reports and believes that the later reports submitted in that docket may have excluded commission payments made by the Sprint marketing group involved with the hospitality industry (which was organizationally separate within Sprint from the marketing group addressing the payphone presubscription market). Sprint's first report, dated June 21, 1991 and covering the period January-April, 1991, showed commissions expense amounting to 17.9% of revenues, and its second report, submitted on September 23, 1991, covering January-July, 1991, showed commissions expense amounting to 19.2% of revenue, close to the amounts shown in currently available information for those time periods. The next report, filed March 23, 1992 for the period January 1, 1991 through January 31, 1992, showed commissions expense for that 13-month period of only 13.2%. It appears that the data in this report were anomalous -- revenues were more than double the level for the seven month period encompassed by the previous report, while commissions expense increased by only approximately 50%. Sprint regrets any inconvenience these previous errors in reporting may have caused the Commission.

were substantially higher than those of other major players in the operator services market.

Furthermore, the Commission's analysis implicitly assumes that the commission rate as a percentage of revenue will remain constant during the 1991-1997 period. Sprint's experience, on the other hand, shows a marked increase in commission rates since 1991. Sprint's commission rates rose from 20.3% in 1991 to 21.8% in 1992, 22.8% in 1993 and 27.0% for the first five months of 1994. Adjusting the Commission's analysis in Appendix B to reflect the commission rate experienced by Sprint during the first five months of this year would result in commission payments of $864 million in 1997, before the adjustments for additional dial-around compensation and elimination of double counting of commissions included in third tier OSP revenues. After those adjustments, the commission payments would still amount to $804 million -- more than double the amount estimated by the Commission.[23] Even assuming commission rates were to return to the 1991 level experienced by Sprint -- 20.3% -- the commission savings would amount to $599 million.[24]

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[23] The $22 million deduction related to an assumed increase in dial-around compensation would remain the same, and the third-tier OSP adjustment to avoid double-counting of benefits would increase from the $17 million shown in Appendix B to $37.8 million ($280 million times 50% non-dial-around times 27% commission rate).

[24] $3.2 billion times .203 equals $649.6 million, less $22 million for increased dial-around compensation, minus $28.4 million ($280 million x .5 x .203) for the third-tier OSP adjustment.

There may be other ways in which the Commission's estimate of cost savings related to the elimination of premises owner/aggregator commissions is understated. The Commission's analysis assumes that commissions are paid only on 0+ traffic, and not dial-around traffic when the dial-around carrier is also the presubscribed carrier. It is Sprint's understanding that AT&T -- the largest OSP by far -- now pays commissions on dial-around calls.

The Commission also has assumed for purposes of its analysis that the amount of dial-around compensation to be paid to the private payphone owners would double. It is far from clear in Sprint's view that the overall level of payments to private payphone providers should be changed as a result of implementation of billed party preference. Leaving that issue aside for the present, we note that APCC -- the private payphone trade association -- and AT&T have agreed to reduce the current level of compensation from the $.40 per call, upon which the current rate of $6 per line per month is based,[25] to $.25 per call.[26]

In addition, it is not clear whether the Commission's analysis fully takes into account the property imposed fees

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25 See, Policies and Rules Concerning Operator Service Access and Pay Telephone Compensation, 7 FCC Rcd 3251 (1992).

26 See, Petition of American Public Communications Council and State Payphone Associations to Initiate, On An Expedited Basis, A Rulemaking Proceeding To Amend Sec. 64.1301 Of The Commission's Regulations To Establish Per-Call Compensation Of Independent Public Payphone Providers For Access Code Calls, dated July 19, 1994.

(PIFs) which are separate and apart from the commissions paid by OSPs to the premises owners. These PIFs, which are billed by the OSP to the party paying for the call but are reflected as a separate item in the bill, often amount to $2 or $3 per call. Like commission payments, they can be expected to disappear with the advent of BPP. Sprint has no way of estimating the total amount of PIFs currently being paid today, but it can be expected to be a substantial sum.

D. Equalization of Competitive Opportunities in the Interexchange Market

Another major benefit the Commission found that would result from implementation of billed party preference is the elimination of the competitive advantages AT&T now has vis-à-vis other IXCs (Further Notice, ¶14). As the Commission correctly pointed out, AT&T's large calling card customer base -- which it inherited from the BOCs at divestiture and which it has since converted, in large part, to a proprietary card -- gives it an advantage in competing for public phone presubscription. This large base of calling cards enables AT&T to promise the premises owner that it can carry more commissionable calls than any other OSPs, since the other OSPs cannot validate AT&T's proprietary cards and lack a calling card customer base as large at AT&T's. As a result, it is not surprising that AT&T (which until early 1989 was the automatic "default" carrier from all RBOC-owned payphones), has a far higher market share of presubscribed public phones than any other carrier.

In turn, this high share of public phone presubscription means that AT&T -- and only AT&T -- can offer its customers the convenience of 0+ dialing from a great majority of public phones. This convenience of 0+ dialing makes its card superior to those of its competitors in the minds of consumers, as the market research discussed in Section II.A., above, demonstrates. The superior ease of use of AT&T's calling card enables AT&T to increase its share of the calling card market segment, and this in turn enables AT&T to guarantee public phone premises owners that it can carry an even greater volume of commissionable phone calls than its competitors. As it increases its market share of presubscribed public phones, it can offer its calling card customers the convenience of 0+ dialing even more of the time, thus further enhancing its ease of use advantage. Sprint believes that AT&T's synergistic advantages in the calling card and public phone presubscription market segments would enable it to continually increase its market share over that of other full service OSPs such as Sprint and MCI. Absent the implementation of billed party preference, this could lead to a virtual remonopolization of these market segments by AT&T.

Billed party preference, on the other hand, would put all interexchange carriers on a level playing field by enabling all OSPs to offer their customers the convenience and simplicity of 0+ dialing. This would be a major enhancement of interexchange competition. While the Commission does not attempt to put a dollar value on this benefit, Sprint believes that its importance to interexchange competition is on a par with 800 number portability. It is worth noting that the Commission ordered implementation of the 800 database system, at a considerable cost to the industry, in order to assure the public the benefit of the enhanced competition that 800 number portability would bring to the 800 service market. IXCs are currently paying the local exchange carriers in excess of $57 million annually for 800 database queries and vertical features.[27] Implicitly, the Commission must have perceived that the public benefit from the increased competition resulting from 800 number portability would exceed the annual recurring costs that would be imposed on IXCs and their 800 customers from implementation of the database system. We believe that a similar implicit value can be placed on the equalization of competitive opportunities that would be fostered by billed party preference.

E. Other Benefits

In ¶¶16-19 of the Further Notice, the Commission discussed a number of other benefits that would result from BPP. First, BPP would reduce the regulatory costs the Commission and state commissions incur in handling the large volume of complaints about the rates charged by some alternative OSPs. Sprint would add to this point that IXCs and local exchange carriers also must deal with customer service inquiries and

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[27] Based on data for the seven RBOCs and SNET from their 1994 Annual Access Tariffs, TRP Form RTE-1.

complaints related to the high charges imposed by alternative OSPs.

A related benefit cited by the Commission was the reduced need to police compliance with TOCSIA. Unfortunately, because of its shortage of resources, the Commission has not been able to enforce effectively TOCSIA requirements relating to disclosure, unblocking of access codes, and the rates charged by alternative OSPs.[28] As long as there are economic incentives to block access codes and charge very high rates, there will always be some service providers that will do so, and the Commission will be hard-pressed to put a stop to such practices. Yet, if the Commission institutionalizes such practices by rejecting BPP, it will face constant consumer and political pressure to control such practices and may not be able to acquiesce, as it did in the past,[29] in high rate levels for alternative OSPs. It is far preferable instead to adopt a system that eliminates the incentives to overcharge consumers.

The Commission also noted that by eliminating AT&T's presubscription advantages, further streamlined regulation of AT&T's operator services might be in order. Sprint agrees. Implementation of BPP would remove the last major structural

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[28] The Commission, in late 1991, instituted investigations of the rates of several alternative OSPs. See, e.g., orders cited in n. 17, supra. Later, the Commission terminated those proceedings after voluntary rate reductions that still left many OSPs' rates at levels (for the "sample" calls) that were 75% above AT&T's highest charge ($3.73) for the sample calls. See, e.g., U.S. Long Distance, 7 FCC Rcd 73 (CCB, 1991) (sample rate reduced to $6.58).

[29] See the preceding footnote.

advantage within the direct control of the Commission, [30] AT&T has carried over from its pre-divestiture monopoly, and once BPP has been implemented, further streamlining of the regulation of AT&T should be appropriate.

The Commission was also correct in observing (¶19) that the benefits of BPP would be significantly augmented if BPP were employed for intraLATA calls. Sprint shares this view. Without intraLATA implementation of billed party preference, some of the advantages of billed party preference -- knowing who your carrier will be and being able to reach your carrier of choice by dialing 0+ -- will be lost. Consumers may have to continue dialing lengthy 800 codes to reach their preferred carriers on intraLATA calls and will have to be instructed by their operator service provider of choice when to do so and when instead to simply dial 0+. Sprint believes it is likely that state commissions will embrace billed party preference for intraLATA calls. The state commissions have been every bit as much on the receiving end of consumer complaints about the high charges of some OSPs as this Commission has.

Finally, there is another benefit of billed party preference that is intangible but nonetheless very important: restoring the public's sense that the public communications network works right and operates fairly. Consumers are frustrated by the complexities of access code dialing and feel

[30] AT&T still has structural advantages accruing from its long established relationships with foreign telecommunications administrations, but the Commission has no direct authority to equalize foreign treatment of U.S carriers.

"ripped off" by the high charges that they sometimes have to pay for calls from aggregator phones. We believe that the restoral of public confidence in the integrity of the public telecommunications system that would be brought about by implementation of billed party preference would stimulate additional calling,[31] and put both the telecommunications system and its regulators in a more favorable public image.

III. COST OF IMPLEMENTING BILLED PARTY PREFERENCE

A. Local Exchange Carrier Costs

After issuance of the Further Notice, Sprint reexamined its previous estimate of the costs its local exchange carriers would incur in implementing billed party preference. The results of that reexamination are shown on the Table on the following page, which compares the implementation costs, line by line, with the previous estimates shown in Sprint's October 1, 1993 *ex parte* submission. This cost estimate assumes a mid-1997 implementation date and reflects the costs of introducing BPP capability for both interLATA and intraLATA traffic. As will be explained in connection with certain cost categories, this cost estimate is derived for purposes of a cost/benefit analysis of BPP and does not necessarily represent costs that would be appropriate for developing charges to recover BPP costs.

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[31] In this regard, Sprint believes that the use of automated AABS technology -- a key ingredient to making billed party preference customer preference customer-friendly -- will even further stimulate call volumes.

BILLED PARTY PREFERENCE COSTS

(000,000)	OCT/93 ESTIMATE			AUG/94 UPDATE			
ONE TIME:	SITES/ NUM	CAPITAL	SFT/EXP	SITES/ NUM	CAPITAL	SFT/EXP	DIFF–ERENCE
1. AABS Functionality	31	$31.9	$12.7	25	$7.1	$11.5	($26.0)
2. OSS7 Capability/CC Routing	31		$18.6	25		$15.7	($2.9)
3. New STP Pairs(MWG Installing)	2	$2.4	$1.0	0	$0.0	$0.0	($3.4)
4. Tandem Upgrades	15	$10.1		0	$0.0		($10.1)
5. Operator Postions	100	$1.3		0	$0.0		($1.3)
6. LIDB/DBAS Modification/Upgrade	1		$2.0	1		$2.0	$0.0
7. SOE/CRB/DBAS Modifications	1		$2.0	1		$3.0	$1.0
8. Billing System Modifications	1		$1.0	1		$1.0	$0.0
9. Bill Inserts*	5.1M		$5.1	5.1M		$0.1	($5.0)
10. Trunking/Facility Rearrangements	200		$6.0	200		$6.0	$0.0
11. EAEO Signaling Modifications	300		$2.4	394		$3.2	$0.8
TOTAL		$45.7	$50.8		$7.1	$42.5	($46.9)
ONGOING ANNUAL EXPENSES:							
1. Add'l Operator Expense	250		$8.8	–55		($1.9)	($10.7)
2. AABS Maintenance	31		$3.2	25		$0.5	($2.7)
2. AABS Facility Expense	0			25		0.7	$0.7
TOTAL		$0.0	$12.0		$0.0	($0.7)	($12.7)
FIRST YEAR TOTAL EXPENDITURE:			$108.5			$48.9	($59.6)
ADD'L COST IF OSS7 REQUIRED AT ALL END OFFICES:							
1. Add OSS7 to existing hosts with SS7				243		$10.7	$10.7
2. Add SP & OSS7 capability to non–SS7 offices				122	$54.9	$3.1	$58.0
3. Accelerated conversions				424	$149.0		$149.0
						$217.7	$217.7
ADD'L COST BALLOTING AS PROPOSED BY FCC:							
1. Balloting Process				5.1M		$5.1	$5.1

* October, 1993 cost estimate based on balloting all customers.

Sprint now projects that the total non-recurring cost of its LECs for the implementation of billed party preference would amount to $49.6 million, and that they would experience a net reduction of $0.7 million in ongoing expenses.[32] These estimates assume that simple customer notification (rather than balloting), will be required, 10-digit screening, and that deployment of OSS7 signaling at all end offices will not be required.[33] The simple balloting process tentatively favored by the Commission (i.e., balloting without subsequent allocation of customers who do not return ballots) would increase the non-recurring costs by $5 million. Adding OSS7 functionality at all end offices would increase the non-recurring costs by a staggering $217.7 million. Over two-thirds of this cost -- $149 million -- relates to the need to convert step-by-step, crossbar, and non-stored-program-controlled digital switches to full digital switch capability, accelerated well prior to the normal replacement schedule for such switches. As discussed in Section IV.A., below, Sprint cannot identify any significant benefits to BPP from deployment of OSS7 signaling to the end office level that would even begin to justify the added expense involved. Moreover, a requirement to deploy OSS7 signaling to the end office level would delay the implementation of billed party preference, be-

[32] See, n. 34, below.

[33] Although the Commission recited contentions of certain LECs that OSS7 should be deployed in all end offices (¶21), in ¶50 the Commission proposed to require OSS7 deployment only in operator tandem switches ("OSSs").

cause it would be impossible for Sprint to convert all of its LEC switches between now and the assumed mid-1997 date for implementing billed party preference. Thus, Sprint urges the Commission not to require deployment of OSS7 signaling below the operator services tandem (the "OSS") level for all LECs and to issue a clear directive to switch manufacturers that they should build into their switch capabilities the optional use of MF signaling from the end office to the operator tandem.

These estimated costs are substantially lower than the estimates Sprint provided to the Commission in its October 1, 1993 ex parte letter. Overall, the non-recurring expenses drop by 46% from $91.5 million to $49.6 million, while the ongoing annual expenses fall from a projected $12.0 million to a negative $0.7 million. The reasons for these changes, line by line, are as follows:

AABS Functionality. There are two reasons for the very substantial drop in estimated AABS expenses. The largest portion of the decrease is attributable to a substantial reduction in hardware and software costs per site due to revised vendor quotes. In addition, the Sprint LECs now project that by mid-1997, they will have reduced the number of operator tandem sites from 31 to 25.

OSS7 Capability/Calling Card Routing. This expense reduction is due to the reduced number of operator tandem sites.

New STP Pairs. Sprint now expects that modernization programs between now and 1997 will eliminate the need for the upgrading that was reflected in the October 1993 estimate. Thus there will be no additional expense for BPP implementation. For the same reason, the Tandem Upgrades Expense -- estimated at $10.1 million of hardware in October 1993 -- will have been completed by 1997.

Operator Positions. Last October, Sprint believed it would have to add approximately 100 new operator positions in its LECs' operator centers to accommodate the additional interLATA traffic that its operators would handle with the implementation of billed party preference. On further analysis, however, Sprint believes that the automated handling of intraLATA operator assisted calls that will result from increased deployment of AABS will free up sufficient positions in Sprint's operator centers that no new investment will be required.

Service Order Entry/Customer Record Database and DBAS Modifications. Sprint now believes the $2 million in additional software expense reflected in its October 1993 estimate was understated and that actual expense will reach $3 million.

With respect to the on-going annual expenses, there is only one expense category that has changed significantly from Sprint's October 1993 estimate. At that time, Sprint estimated that it would require the addition of 250 operators to staff the additional 100 operator positions noted above, at an annual expense of $8.8 million. Sprint now believes that the automated handling of intraLATA calls resulting from AABS deployment will more than offset the increased volume of inter-

LATA calls handled by "live" operators, and that overall, Sprint will be able to realize manpower efficiencies that will effect expense savings of $1.9 million annually.[34] The update of on-going annual expenses also includes a modest reduction in AABS maintenance expense because of the smaller number of operator sites, and an allowance for AABS facility expense (to provide links between the host gateway controller, on the one hand, and switches and voice response units, on the other) that was not included in Sprint's previous estimate.

For purposes of comparing the implementation costs of billed party preference (which are essentially one-time expenses and investments) with the quantifiable benefits of BPP (which, as discussed above, are annual, on-going savings), the annual implementation costs for the Sprint LECs, assuming amortization of non-recurring costs over five years, would amount to $7.6 million.[35] It may be noted that once the amortization of the non-recurring expenses has been completed, the annual BPP costs should be substantially lower than this esti-

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[34] Sprint wants to make clear, in this regard, that while this expense saving is a valid part of a cost/benefit analysis of BPP, it does not translate directly in charges to recover BPP costs. Sprint estimates that it would need approximately 100 additional "live" operators to handle additional interLATA operator services calls, a cost (amounting to approximately $3.5 million annually), which is attributable to BPP for cost recovery purposes.

[35] This estimate was calculated by using 29% of the non-recurring expenses as an annual amortization of those expenses (<u>see</u>, n.43 at ¶27 of the Further Notice) then adding the negative $.7 million ongoing expense, and subtracting the $6.1 million in ongoing annual offsets identified in Sprint's October 1, 1993 <u>ex parte</u> letter.

mate. Sprint also wishes to clarify that the annual demand of 100 million calls shown in Sprint's October 1, 1993 ex parte letter reflected only interLATA calls. The unit cost of $0.3262 shown therein would have been substantially lower if intraLATA traffic were also considered, since the costs shown reflect costs needed to implement BPP for both inter and intraLATA traffic.

For purposes of these initial comments, Sprint has not attempted to undertake a critical analysis of the previous cost submissions of other major local exchange carriers. Particularly in light of the substantial decreases in unit cost estimates the Sprint LECs have received from their vendors, Sprint believes the previous forecasts of other major LECs are probably so out of date that it would not be productive to analyze them in depth. Sprint would expect the other major LECs to submit revised cost estimates in their initial comments and would anticipate substantial reductions in their estimated implementation costs as well, although, since many of the cost reductions projected by Sprint are specific to the operations of its LECs, it is hard to predict the exact reductions of the other LECs.

B. Interexchange Carrier Costs

Based upon data submitted by Sprint, AT&T and MCI, the Commission estimated (in ¶28) that total implementation costs for the interexchange industry would not exceed $120 million, or about $35 million per year (exclusive of LEC charges to recover their BPP costs), assuming a five-year amortization of development costs. The data for Sprint were submitted in an August 12, 1993 ex parte submission in response to staff requests, and Sprint believes those estimates remain valid. AT&T's estimated non-recurring costs of $68 million are slightly more than ten times Sprint's estimated $6.5 million implementation costs and seem somewhat high considering the relative sizes of the two carriers.[36] Moreover, the $40 million in costs that AT&T projected for switch and software development is 13 times the amount Sprint projected for the same functions for a carrier that is six times the size of Sprint. It would seem logical to assume that AT&T should have positive, rather than negative, scale advantages over Sprint for such costs. Accordingly, Sprint would expect AT&T's current cost estimates to be lower than its previous estimate, and therefore, Sprint believes the total OSP implementation costs are under the amounts estimated by the Commission. The Commission should also bear in mind that, as in the case of LEC implementation costs, the annualized costs are largely (in some cases exclusively) composed of first-year implementation costs that would be amortized over a five-year period. After that five-year period is over, the annual BPP related costs should be substantially lower than the Commission's projection for 1997.

[36] The Commission's most recent market share data shows AT&T to be slightly less than six times the size of Sprint in terms of toll service revenues. See "Long Distance Market Shares, First Quarter, 1994," supra, Table 5.

C. <u>Other "Costs" of Implementing Billed Party Preference</u>

In the Further Notice (¶¶29-34), the Commission considered arguments that BPP would degrade service quality and would adversely affect OSP competition and availability of public payphone service. Sprint believes the Commission correctly concluded that BPP should not materially degrade the quality of operator services: by simplifying procedures and restoring integrity to the system, it should improve the quality of service perceived by end users for the reasons explained above. The Commission also concluded that the effect on some OSPs and private payphone providers should not forestall implementation of billed party preference. It is true that the alternative operator service providers and private payphone providers that have made a market for themselves by charging excessive rates to the public will have to find other ways of doing business if they wish to remain viable. That is a major <u>benefit</u> of the implementation of billed party preference. The Commission should fashion a market structure that discourages, rather than induces, that type of behavior.

In answer to the private payphone providers' claims about the adverse effect of BPP on their business, the Commission indicated its intention to increase compensation of competitive payphone providers if BPP is adopted, but to defer that issue to a later date. <u>See</u>, n. 53 and accompanying text in ¶33. Sprint will reserve its arguments on the merits of such an increase until that time, but believes that a few observations are nonetheless in order now. Sprint fully supports the continued participation of private payphone providers in the telecommunications market after BPP is implemented if their participation is consistent with the public interest. However, the interests of the private payphone industry cannot outweigh the overriding benefits of BPP discussed above. Also, the private payphone industry has raised legitimate issues, which have been pending for several years, regarding the treatment of private payphones vis-à-vis LEC-owned payphones.[37] Sprint urges the Commission to decide whether the current differences in treatment are justified, and, if not, what regulatory changes need to be made. Sprint believes that it is desirable to address these issues before considering the issue of additional dial-around compensation.

The Commission (in ¶35) also sought comment on the effect BPP might have on the development of competition in the local exchange marketplace, noting assertions by MFS that BPP would create a LEC bottleneck through which all 0+ intraLATA calls would have to routed. Sprint recognizes that BPP perhaps would put an end to dedicated access arrangements from a large aggregator (such as a large hotel) to an operator service provider, but doubts that this market is great enough to significantly affect the business opportunities of competitive access providers. Moreover, since the last round of comments in this

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[37] See, e.g., Public Telephone Council's Expedited Petition For Declaratory Ruling, dated July 18, 1988, Public Notice, 3 FCC Rcd 4779 (1988); and Petition for Declaratory Ruling of the American Public Communications Council, dated April 21, 1989 (Public Notice DA 89-517, May 16, 1989).

proceeding, the Commission has substantially opened up the market for local access competition by mandating co-location at LEC central offices. Furthermore, to the extent that competitive access providers decide to enter the local switched market there is no reason why they cannot perform the same BPP functions that the traditional local exchange carriers would perform. Thus, Sprint does not believe the interests of the CAPs are inherently inconsistent with, or should stand in the way of implementation of, billed party preference.

Finally, in ¶38, the Commission invited comment on whether, in the event it does not adopt BPP, it should reconsider its decision in Phase I of this docket to reject the "0+ public domain" concept. Sprint opposed "0+ public domain" in its June 2, 1992 Comments and June 17, 1992 Reply Comments. Sprint pointed out that ambiguities in the definition of "0+ public domain" by some of its proponents could result in denying IXCs their legitimate right to issue proprietary cards and argued that this proposal could create further confusion and inconvenience on the part of the public. Nothing has changed in the intervening time which would revise Sprint's analysis of the merits (or lack thereof) of 0+ public domain.

However, one argument advanced by APCC in that proceeding does raise a legitimate issue in Sprint's view. APCC argued that if a carrier elects to keep its calling cards entirely proprietary, it should be free to do so, but if a carrier chooses to share validation for its calling card (and enter into billing and collection agreements for calls made on that card) with other common carriers, it should be required to do so on a non-discriminatory basis with all other carriers.

There is considerable merit in that argument. AT&T should have the right that Sprint has exercised to issue a proprietary card that can only be used on AT&T's network. However, AT&T has entered into agreements with local exchange carriers and other interexchange carriers (including GTE Airfone) for acceptance of its card for calls carried by those carriers. Having chosen to do so, we believe it is discriminatory for AT&T to decline to share validation of its card and enter into the necessary billing and collection arrangements with other carriers that wish to accept its card for calls made over their networks. Thus, while Sprint would oppose adoption of the "0+ public domain" concept if the Commission fails to adopt BPP, Sprint would urge the Commission to draw a bright line between proprietary cards and shared cards and require any carrier that shares validation of its card with another carrier do so with all interested carriers on non-discriminatory terms.

IV. IMPLEMENTATION ISSUES

In ¶¶47-51 of the Further Notice, the Commission tentatively concluded that if BPP is mandated, it should apply to all interLATA 0+ and 0- calls in order to maximize consumers' ability to reach their preferred carriers easily and to minimize confusion that could arise if BPP were applicable to some calls, but not others. Sprint supports this broad application of BPP: by increasing the coverage of BPP, the implementation costs will be spread over a larger number of units and will thereby be minimized and customer confusion will be minimized as well.

The Commission considered, in ¶48, the possibility of exempting calls from residential and business phones since they are less likely to reach OSPs that charge rates that are higher than the norm. However, a significant number of away-from-home calls are made from residential and business phones, and Sprint believes it would cause confusion among customers who will have come to expect their preferred carrier to handle 0+ calls from hotels, hospitals, payphones, etc., to find that they are being billed for calls from residential or business phones by a carrier not of their choosing. Furthermore, the consensus of the parties in this proceeding was that it would be more costly, rather than less costly, to implement BPP in such a selected fashion. As the Commission observed in the Further Notice (id.), even some opponents of BPP support applying it to all 0+ and 0- calls if it is to be mandated.

The Commission raised a number of other implementation issues on which it sought further comment, including participation of independent LECs in BPP, applicability of BPP to inmate telephones, cost recovery, carrier selection and card format. Those issues are discussed below.

A. Participation of Independent LECs

The biggest issue regarding independent LEC participation in billed party preference is whether OSS7 must be deployed down to the end office level. As indicated in the preceding section, such a requirement would quintuple the implementation cost for the Sprint LECs, and Sprint suspects it would have a similarly negative impact on smaller independent LECs as well. If OSS7 functionality is only required to be deployed to the operator tandem level, there is no reason Sprint is aware of why independent LECs (who may provide operator services through connections between their end offices and an operator tandem of another LEC that will have installed OSS7 in any event) should not be able to participate in billed party preference.

Sprint is not aware of any reason why OSS7 functionality needs to be deployed to the end office level. MF signaling can perform the "route splitting" functions described in ¶21 of the Further Notice. MF signaling (unlike OSS7) cannot automatically forward the 1+ PIC to be used as a default when, for whatever reason, the primary and secondary 0+ PICs cannot be determined at the operator tandem switch. However, it is not self-evident that such calls <u>should</u> default to the 1+ PIC of the originating line. Sprint believes it would be far more cost effective, in these rare instances, to simply have the call default to a "live" operator and have the operator ask the calling party to select an operator service provider, similar to the procedure now employed by LECs that offer 0-transfer service. This default procedure is also more consistent with the concept of BPP than a default to the 1+ carrier of the originating line.

B. Inmate Telephones

One of the most difficult issues in this proceeding is whether to include inmate telephones in billed party preference. One of the reasons previously advanced for exclusion of such phones -- maintaining the flow of commissions to prisons from operator service providers -- is not a sound public interest consideration. Obviously, all public phone premises owners -- hotel chains, convenience stores, airport authorities and the like -- have become accustomed to the commissions that they have been paid under the present system of presubscription. However, the understandable desire to maintain that flow of commissions cannot be determinative of the public interest, since it is these commissions which create the economic incentives that account for many of the abuses under the current system. Although Sprint does not doubt the legitimate need by prisons for adequate funding, it might be particularly inequitable, from the viewpoint of social policy, if this funding came at the expense of above-normal charges for collect calls made to the families of prisoners.

The two legitimate grounds for considering and resolving this issue, in Sprint's view, are the impact on billed party preference costs of including or excluding inmate phones, and the impact on toll fraud. Assuming the exclusion of prison phones would not materially increase the costs of billed party preference, Sprint would not oppose exclusion of inmate-only phones. The prison environment is a unique one, as the Commission recognized in excluding correctional institutions from the definition of "aggregator" for purposes of inmate-only phones in implementing Section 226 of the Act,[38] and may deserve special consideration because of toll fraud considerations.

Toll fraud on calls originating from correctional institutions is a problem under the current environment and would undoubtedly be a problem under billed party preference as well. There are many types of toll fraud, and each presents its own problems. Control of fraud in the present environment depends in large part on the willingness of prisons and OSPs to invest in the proper equipment or systems. On the other hand, control of fraud under BPP would require LECs to provide information to OSPs that is not always provided today. See, Sprint's ex parte letters dated September 21, 1993 and December 17, 1993.

The Commission also asked (¶51) whether, if inmate phones are excluded from BPP, such exclusion should be conditioned on presubscription to an OSP whose rates do not exceed those of the dominant carrier. Sprint believes that such a condition would protect the public -- particularly families of inmates -- from abuses that they may be subjected to at the present time and would be a reasonable condition for exclusion of the phones from billed party preference. However, in framing such a condition, the Commission should allow for the fact that even where a carrier intends to charge no more than the domi-

[38] See Policies and Rules Concerning Operator Service Providers, 6 FCC Rcd 2744, 2752 (1991).